

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

**Dennis Scott Tilley And Tara Williamson
Tilley**

Case No. 10-81419
Chapter 13

Soc. Sec. No xxx-xx-4068 and xxx-xx-7362
Mailing Address 6115 Dawn Drive, Hurdle Mills, NC 27541-

Debtors

MOTION TO MODIFY PLAN

NOW COME the Debtors, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on August 11, 2010, with the Chapter 13 plan being subsequently confirmed on November 15, 2010.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From: \$1,490.00 per month

To: \$1,490.00 per month through September, 2011, followed thereafter by \$1,379.00 per month, starting in October, 2011.
3. The changed circumstances that justify the proposed modification are as follows:
 - A. The Debtors' child has been diagnosed with asthma, and he now requires daily medication.
 - B. The Debtors' main mode of transportation, a 2003 Chevy Trailblazer, is in need of a clutch fan replacement.
4. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.
5. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

7. The plan is feasible based on the following reduction in monthly payments made to the following secured creditors:
 - A. American General: Reduction to \$21.08 per month.
 - B. BB&T arrearage claim: Reduction to \$41.33 per month.
 - C. Chase Home Finance Arrearage claim: Reduction to \$105.44 per month.

Appended Application for an Additional Attorney Fee

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by disbursement from the Chapter 13 Trustee through the Debtors' Chapter 13 plan.

Dated: September 7, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury Hicks

Koury Hicks

North Carolina State Bar No.: 36204

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on September 7, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee

Michael West
U.S. Bankruptcy Administrator

Dennis Scott Tilley and Tara Williamson Tilley
6115 Dawn Drive,
Hurdle Mills, NC 27541-

All creditors with duly filed claims as listed on the Trustee's website.

/s Koury Hicks

Koury Hicks

DUKE HEALTH SYSTEM
5713 ALSTON AVENUE
DURHAM, NC 27713

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613
Michael West

Macy's
Bankruptcy Processing
Po Box 8053
Mason, OH 45040

GBA
Bankruptcy Dept
PO Box 1847
Wilson, NC 27894-1847

Dennis Scott Tilley And Tara Williamson Tilley
6115 Dawn Drive,
Hurdle Mills, NC 27541-

RTP Federal Credit Union **
4220 NC Hwy 55
Suite 330
Durham, NC 27713

Gary P. Hill, DDS
3115 Academy Road
Durham, NC 27707-5123

Dr. Morris Griffin
908 Broad Street
Durham, NC 27705

American General
P O BOX 3121
EVANSVILLE, IN 47731

Chase Records Center
Mail Code LA4-5555 - 700 Kansas
Lane
Monroe, LA 71203

Portfolio Recovery Associates, LLC.
PO Box 41067
Norfolk, VA 23541

GE Money Bank
Attn: Bankruptcy Department
PO Box 960061
Orlando, FL 32896-0661

PRA
PO Box 12914
Norfolk, VA 23541

In re **Dennis Scott Tilley**
Tara Williamson Tilley

Case No. **10-81419**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

| | | |
|--------------------------|-------------------------------------------------------|----------------------------------------------------|
| Debtor's Marital Status: | DEPENDENTS OF DEBTOR AND SPOUSE | |
| Married | RELATIONSHIP(S) | AGE(S) |
| | Son Son | 14 7 |
| Employment: | DEBTOR | SPOUSE |
| Occupation | Sales/Delivery | PT/OT Authorizations |
| Name of Employer | R.E. Michel | Triange Orthopaedic Association |
| How long employed | 4 Years | 13 Years |
| Address of Employer | One R.E Michel Drive Glen Burnie, MD 21060 | 120 William Penn Plaza Durham, NC 27704 |

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

| DEBTOR | SPOUSE |
|--------------------|--------------------|
| \$ 2,674.27 | \$ 2,820.65 |
| \$ 0.00 | \$ 0.00 |

3. SUBTOTAL

| | |
|--------------------|--------------------|
| \$ 2,674.27 | \$ 2,820.65 |
|--------------------|--------------------|

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify)

See Detailed Income Attachment

| | |
|------------------|------------------|
| \$ 427.09 | \$ 233.88 |
| \$ 211.21 | \$ 274.89 |
| \$ 0.00 | \$ 0.00 |
| \$ 4.12 | \$ 169.11 |

5. SUBTOTAL OF PAYROLL DEDUCTIONS

| | |
|------------------|------------------|
| \$ 642.42 | \$ 677.88 |
|------------------|------------------|

6. TOTAL NET MONTHLY TAKE HOME PAY

| | |
|--------------------|--------------------|
| \$ 2,031.85 | \$ 2,142.77 |
|--------------------|--------------------|

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify):

| | |
|----------------|----------------|
| \$ 0.00 | \$ 0.00 |
| \$ 0.00 | \$ 0.00 |
| \$ 0.00 | \$ 0.00 |
| \$ 0.00 | \$ 0.00 |

12. Pension or retirement income

13. Other monthly income

(Specify):

| | |
|----------------|----------------|
| \$ 0.00 | \$ 0.00 |
| \$ 0.00 | \$ 0.00 |
| \$ 0.00 | \$ 0.00 |

14. SUBTOTAL OF LINES 7 THROUGH 13

| | |
|----------------|----------------|
| \$ 0.00 | \$ 0.00 |
|----------------|----------------|

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

| | |
|--------------------|--------------------|
| \$ 2,031.85 | \$ 2,142.77 |
|--------------------|--------------------|

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

| | |
|--------------------|--|
| \$ 4,174.62 | |
|--------------------|--|

(Report also on Summary of Schedules and, if applicable, on
Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

-NONE-

In re Dennis Scott Tilley
Tara Williamson Tilley

Debtor(s)

Case No. 10-81419

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Income Attachment

Other Payroll Deductions:

| | | |
|---------------------------------------|----------------|------------------|
| <u>401K Loan Repayment</u> | \$ <u>0.00</u> | \$ <u>52.85</u> |
| <u>Uniforms</u> | \$ <u>0.00</u> | \$ <u>14.06</u> |
| <u>LTD</u> | \$ <u>4.12</u> | \$ <u>0.00</u> |
| <u>Supplemental Insurance</u> | \$ <u>0.00</u> | \$ <u>102.20</u> |
| <u>Total Other Payroll Deductions</u> | \$ <u>4.12</u> | \$ <u>169.11</u> |

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) -
AMENDED**

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

- | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-------------|
| 1. Rent or home mortgage payment (include lot rented for mobile home) | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | \$ 0.00 |
| a. Are real estate taxes included? | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | |
| b. Is property insurance included? | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | |
| 2. Utilities: | | |
| a. Electricity and heating fuel | | \$ 254.62 |
| b. Water and sewer | | \$ 0.00 |
| c. Telephone | | \$ 60.00 |
| d. Other See Detailed Expense Attachment | | \$ 267.00 |
| 3. Home maintenance (repairs and upkeep) | | \$ 75.00 |
| 4. Food | | \$ 700.00 |
| 5. Clothing | | \$ 90.00 |
| 6. Laundry and dry cleaning | | \$ 44.00 |
| 7. Medical and dental expenses | | \$ 192.00 |
| 8. Transportation (not including car payments) | | \$ 500.00 |
| 9. Recreation, clubs and entertainment, newspapers, magazines, etc. | | \$ 80.00 |
| 10. Charitable contributions | | \$ 0.00 |
| 11. Insurance (not deducted from wages or included in home mortgage payments) | | |
| a. Homeowner's or renter's | | \$ 0.00 |
| b. Life | | \$ 0.00 |
| c. Health | | \$ 0.00 |
| d. Auto | | \$ 100.00 |
| e. Other | | \$ 0.00 |
| 12. Taxes (not deducted from wages or included in home mortgage payments) | | |
| (Specify) Personal Property Taxes | | \$ 15.00 |
| 13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan) | | |
| a. Auto | | \$ 0.00 |
| b. Other | | \$ 0.00 |
| c. Other | | \$ 0.00 |
| 14. Alimony, maintenance, and support paid to others | | \$ 0.00 |
| 15. Payments for support of additional dependents not living at your home | | \$ 0.00 |
| 16. Regular expenses from operation of business, profession, or farm (attach detailed statement) | | \$ 0.00 |
| 17. Other See Detailed Expense Attachment | | \$ 1,797.00 |
| 18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.) | | \$ 4,174.62 |
| 19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: | | |
| -NONE- | | |
| 20. STATEMENT OF MONTHLY NET INCOME | | |
| a. Average monthly income from Line 15 of Schedule I | | \$ 4,174.62 |
| b. Average monthly expenses from Line 18 above | | \$ 4,174.62 |
| c. Monthly net income (a. minus b.) | | \$ 0.00 |

In re Dennis Scott Tilley
Tara Williamson TilleyCase No. 10-81419

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED
Detailed Expense Attachment**Other Utility Expenditures:**

| | | |
|-----------------------------------------|-----------|---------------|
| Cell Phone | \$ | 120.00 |
| Cable | \$ | 122.00 |
| Internet | \$ | 25.00 |
| Total Other Utility Expenditures | \$ | 267.00 |

Other Expenditures:

| | | |
|---------------------------------|-----------|-----------------|
| Chapter 13 Plan Payment | \$ | 1,379.00 |
| Emergency | \$ | 113.00 |
| Personal Care | \$ | 70.00 |
| Miscellaneous | \$ | 100.00 |
| After school child care | \$ | 135.00 |
| Total Other Expenditures | \$ | 1,797.00 |

CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 7/21/10

Lastname-SS#: Tilley - 4068 MtM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

| Creditor Name | Sch D # | Description of Collateral |
|---------------|---------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

SURRENDER COLLATERAL

| Creditor Name | Description of Collateral |
|---------------|---------------------------|
| | |
| | |
| | |
| | |
| | |

ARREARAGE CLAIMS ON RETAINED COLLATERAL

| Creditor Name | Sch D # | Arrearage Amount |
|---------------|---------|------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| Chase Home | | \$5,042 |
| BB & T Bank | | \$1,984 |

REJECTED EXECUTORY CONTRACTS/LEASES

| Creditor Name | Description of Collateral |
|---------------|---------------------------|
| | |
| | |
| | |
| | |
| | |

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

| Creditor Name | Sch D # | Mortgage Payment | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|---------------|---------|------------------|-----------|---------------------|-----------------------|---------------------------|
| Chase Home | | \$719 | n/a | n/a | \$719 | |
| BB & T Bank | | \$418 | n/a | n/a | \$418 | |
| | | | n/a | n/a | | |

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

| Creditor Name | Sch D # | FMV | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|---------------|---------|-----|-----------|---------------------|-----------------------|---------------------------|
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |

STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

| Creditor Name | Sch D # | Payoff Amount | Int. Rate | Adequate Protection | Minimum Equal Payment | Description of Collateral |
|------------------|---------|---------------|-----------|---------------------|-----------------------|---------------------------|
| American General | | \$911 | 5.25 | \$9 | \$21 | Consumer Goods |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |
| | | | 7.00 | | | |

ATTORNEY FEES (Unpaid Part)

Law Offices of John T. Orcutt, P.C. \$250

SECURED TAXES

IRS Tax Liens

Real Property Taxes on Retained Realty

UNSECURED PRIORITY DEBTS

IRS Taxes

State Taxes

Personal Property Taxes

Alimony or Child Support Arrearage

COSIGN PROTECT (Pay 100%)

All Co-Sign Protect Debts (See***) Int.% Payoff Amount

GENERAL NON-PRIORITY UNSECURED

DMT = None(\$0) Amount to Pay*

PROPOSED CHAPTER 13 PLAN

\$ 1379 /month for 48 months, then

\$ N/A /month for N/A months.**

Definitions

Sch D # - The number of the secured debt as listed on Schedule D

Adequate Protection = Required monthly "Adequate Protection" payment

* = Minimum of DMT x ACP, minus all co-sign protect debt

** - Plan duration is subject to "Duration of Chapter 13 Plan" provision

*** Co-sign protect on all debts so designated on filed schedules D, E and F

Final MD_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

Other Miscellaneous Provisions